City Council Minutes: December 12, 2017



MINUTES REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF WHITE BEAR LAKE, MINNESOTA TUESDAY, DECEMBER 12, 2017 7:00 P.M. IN THE COUNCIL CHAMBERS

1. CALL TO ORDER AND ROLL CALL

Mayor Emerson called the meeting to order at 7:00 p.m. Councilmembers Doug Biehn, Kevin Edberg, Steven Engstran, Dan Jones, Bill Walsh in attendance. Staff members present were City Manager Ellen Richter, Assistant City Manager Rick Juba, Finance Director Don Rambow, City Engineer Mark Burch, City Clerk Kara Coustry and City Attorney Pat Sweeney.

PLEDGE OF ALLEGIANCE

2. APPROVAL OF MINUTES

Minutes of the Closed City Council Meeting on November 28, 2017.

It was moved by Councilmember **Jones** seconded by Councilmember **Biehn**, to approve the Minutes of the Regular City Council Meeting on November 28, 2017.

Motion carried unanimously.

Minutes of the Regular City Council Meeting on November 28, 2017.

Councilmember Biehn asked for it to be noted that he asked the Police Chief to add the reason behind the non-review of the footage under the body camera public hearing, 5A.

It was moved by Councilmember **Biehn** seconded by Councilmember **Walsh**, to approve the Minutes of the Regular City Council Meeting on November 28, 2017 with this addition.

Motion carried unanimously.

3. APPROVAL OF THE AGENDA

City Manager Richter requested the addition of the following Agenda items:

- 8A. Adopt Resolution for Summary Publication
- 9D. Consider Resolution Authorizing Execution of Financial Agreement with the White Bear Lake Hockey Association
- 10E. Housing and Redevelopment Agenda, Resolution in support of acquiring a taxforfeited property, St. Regis Property

It was moved by Councilmember Walsh seconded by Councilmember Jones, to approve the Agenda as amended.

Motion carried unanimously.

4. VISITORS AND PRESENTATIONS

Nothing scheduled

5. PUBLIC HEARINGS

Nothing scheduled

6. LAND USE

A. Consent

- 1. Consideration of a Planning Commission recommendation for approval of a request by Violet Montessori for a Conditional Use Permit for a day care facility; a variance to allow the fence and play area in a front yard; and, "General Concept" & "Development Plan" stage approval of a Planned Unit Development for signage; all in order to allow the establishment and operation of a Montessori for the property located at 2025 4th Street. (Case No. 17-2-PUD, 17-4-CUP and 17-23-V). Resolution No. 12125
- 2. Consideration of a Planning Commission recommendation for approval of a request by **Betsy Larey** to split one lot into two for the property located at 1298 N. Birch Lake Boulevard. (Case No. 17-1-LS). **Resolution No. 12126**

It was moved by Councilmember **Edberg** seconded by Councilmember **Biehn**, to approve the Consent Agenda as presented.

Motion carried unanimously.

B. Non-Consent

1. Consideration of a Planning Commission recommendation for approval of a request by **Division 25, LLC** on behalf of **Lunds and Byerlys** for Development Stage Planned Unit Development (PUD) approval for Tower Crossing – Phase II to permit a grocery store for the property located at 4630 Centerville Road. (Case No. 17-5-CUP)

Community Development Director Kane reviewed a request for a Planned Unit Development (PUD) proposal from Lunds and Byerlys for development of a grocery store at 4630 Centerville Road, formerly known as the Lande property. The site plan is consistent with the initial PUD concept for the development and reduced setbacks are consistent with zoning flexibility allowed through the PUD process. To alleviate traffic concerns on Centerville Road, the site's internal service drive, reviewed by the City Council as part of Hy-Vee's proposal, is again included in this proposal. The internal service drive was approved in a 2006 Comprehensive Plan amendment, and it is essential to the project to consolidate traffic.

Ms. Kane reviewed modifications to the site plan, including turn lanes, roadways for trucks that require access to the store, and water tower site amendments related to easement encroachments, setback amendments and signage. No pylon sign is proposed, conditional upon removal of scrub growth and other vegetation by the Minnesota Department of Transportation (MnDOT) to allow increased visibility for motorists on Interstate 35-E to see the building and signage. MnDOT has expressed concerns related to removal of landscape vegetation, which could result in additional PUD approval for a pylon sign.

The proposed structure's reduced square footage results in an amended traffic model that reflects reduced counts. Conceptual approval was received from Ramsey County in early 2017, including an auxiliary right turn lane into Tower Crossings and installation of a traffic signal at the new intersection aligned with Cub's northern drive. Improved timing of signals along the Highway 96 corridor and modifications to a proposed Centerville Road median will also facilitate improved traffic conditions along the corridor.

Ms. Kane reported that a public hearing was held at the Planning Commission's last meeting, and the Commission unanimously recommended City Council approval for Phase 2 of Tower Crossings PUD, subject to the conditions in the Resolution.

Councilmember Walsh asked whether the Meadowlands Drive intersection would be uncontrolled. Community Development Director Kane confirmed this, adding U-turns would be accommodated at the new signalized intersection.

Councilmember Walsh asked what the square footage of the grocery store would be. Community Development Director Kane stated it is significantly smaller than the proposed Hy-Vee building, with 70,000 square feet proposed for the new Lunds and Byerlys store.

Councilmember Edberg asked whether City staff is confident in Lunds and Byerlys ability to handle the costs associated with the proposed development. Community Development Director Kane stated this is a more financially feasible project than the previous development application for this property, which included a parking ramp and two story building design.

Councilmember Jones expressed his belief that Ramsey County should participate in improving Centerville Road, which is a County road, to accommodate traffic generated by development.

Councilmember Jones asked whether customers of Tires Plus will have access to the internal service drive, as they will be unable to access southbound Centerville Road. Community Development Director Kane stated Tires Plus customers will be restricted to northbound Centerville Road, although they will be able to make a U-turn at the new signal.

Councilmember Walsh stated many residents have expressed concern about increased traffic related to this project. He added the proposed building's smaller footprint will result in lower traffic counts. He urged City staff to keep traffic concerns at the forefront.

Mayor Emerson opened the public hearing at 7:39 p.m.

John Johannson, 4350 Baker Road, Suite 400, Minnetonka 55343, stated he represents Division 25, the project developer. He spoke on behalf of Lunds and Byerlys, and expressed support and agreement with City staff's recommendations. He introduced Mitch Avery representing Lund's and Byerly's, as well as the Alliant Engineering team.

Mitch Avery, 3946 West 50th Street, Edina, stated he represents Lunds and Byerlys. He stated Lunds and Byerlys are pleased to be part of the City of White Bear Lake. He added Lunds and Byerlys wants the store architecture and its signage to be apparent on all four sides of the building. He noted an agreement with MnDOT regarding landscape and signage will be a key component.

Mr. Johannson stated changes to the current road and traffic situation on Centerville Road will result in improved safety and control. He added any reimbursement assistance from the City will be appreciated. He noted City staff indicated willingness to work with the developer, particularly related to tree removal and rear building façade features.

Mayor closed public hearing at 7:48 p.m.

In response to an earlier question by Council, Community Development Director Kane stated that Cub Food's, a slightly larger store, pays \$274,000 in annual property taxes.

It was moved by Councilmember Walsh seconded by Councilmember Biehn, to approve Resolution No. 12127 the request for Phase II of the Tower Crossing Planned Unit Development of Lunds and Byerlys.

Motion carried unanimously.

7. UNFINISHED BUSINESS

Nothing scheduled

8. ORDINANCES

A. Second reading of an ordinance establishing 2018 annual fee and utility rate schedule. **Resolution 12128**

City Manager Richter explained that the first reading of this ordinance was held at the November 14th City Council meeting to ensure that it could be adopted with the annual budget.

Ms. Richter stated the current sewer fund deficit, created by operating losses related to a Metropolitan Council-driven increase in sewer rates over a four-year period, can be addressed through a transfer from the non-bonded fund. A rate adjustment would then reflect anticipated 2018 costs. Another option, as proposed by Councilmember Edberg for consideration when first reading was held, is to raise rates to generate enough revenue to reimburse the non-bonded fund. The Water Fund is also in deficit for reasons outlined in the staff memorandum. Similar options for addressing this deficit are available. Ms. Richter requested City Council consideration of either option 1 or 2 for sewer and water rates, as outlined in the staff memorandum.

Councilmember Walsh requested clarification regarding depletion of the sewer rate fund. Ms. Richter stated sewer rates remained unchanged for a 5-year period.

Finance Director Rambow stated the Metropolitan Council Environmental Services have indicated their fees will increase by 6% annually regardless of flow. He added it is to be expected that the City will need to review and adjust rates accordingly.

Councilmember Edberg stated current and future infrastructure investment is a necessity, and should not be subsidized through the false economy of transfers from non-bonded funds. He added residents should pay for the cost of having access to sewer and water. He noted his support of the second option for both sewer and water.

Councilmember Jones expressed his support and appreciation for the options provided by City staff. Councilmember Biehn agreed.

Councilmember Walsh stated he would support a more transparent way of making funds available for capital expenditures. He added he supports the second option for both funds.

Mayor Emerson opened the public hearing at 8:03 p.m.

As no one came forward to speak, Mayor Emerson closed the public hearing at 8:03 p.m.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Jones**, to adopt **Summary Resolution No. 12128** using Option 2 utility rates.

Motion carried unanimously.

It was moved by Councilmember Jones, seconded by Councilmember Biehn, to adopt Ordinance 17-12-2027 establishing 2018 annual fee and utility rates.

Motion carried unanimously.

B. First reading of an ordinance establishing gas and electric franchise fees

Councilmember Edberg stated he does not support an increased franchise fee unless there is a proven overall structural benefit. He noted, as an example, the City Council discussed that water litigation fees be paid by users of the water system rather than new taxation.

City Manager Richter stated many communities use franchise fees to fund infrastructure projects. She added additional ways to provide revenue can be discussed as part of the long-range planning process.

C. First reading of an ordinance establishing right-of-way for small cell permits

City Manager Richter stated the City is required by State Statute to allow small cell permits in the City's right of way. She added a right of way ordinance is required and a draft is included in tonight's packet for first reading. This item will be considered at the City Council's first meeting in January.

Councilmember Edberg expressed concern that the ordinance not preclude the City from having future access to the right of way for municipal cell and internet service, or give preferential treatment to a private enterprise. City Attorney Sweeney stated that is not a consideration in the proposed ordinance.

Councilmember Walsh asked whether there is a fee schedule, and whether revenue will be generated from placing small cell technology in the right of way. City Engineer Burch stated actions were taken during the last legislative session to limit fees that can be charged by MnDOT or Ramsey County.

Councilmember Walsh asked whether small cell technology can be characterized, and whether a Conditional Use Permit (CUP) will be required. Mr. Burch stated that is a concern for City staff, as permits will not be reviewed individually by the City Council.

Mayor Emerson stated this issue would be discussed by the City Council at its January 9, 2018, Regular Meeting.

9. NEW BUSINESS

A. Resolutions adopting 2017 Tax Levy Collectible in 2018 and adoption of the revised 2017 and proposed 2018 Budget

City Manager Richter stated the City Council's consideration of the 2017 tax levy is requested.

It was moved by Councilmember Walsh, seconded by Councilmember Edberg, to adopt Resolution No. 12129 adopting the 2017 tax levy collectible in 2018 at \$5,625,000.

Motion carried unanimously.

Councilmember Walsh requested that the motion be withdrawn and reconsidered. He added he misunderstood the Resolution, and intended to initiate a conversation regarding the levy.

Councilmember **Edberg** moved, seconded by Councilmember **Walsh**, to reconsider the resolution. Councilmember Jones expressed concern that reconsideration of a motion will set precedence. Mayor Emerson agreed.

The motion to reconsider carried 3:2. Councilmember Engstran and Councilmember Jones nay.

Councilmember Walsh stated he supports two of three components of the tax levy. He stated that the City can wait another year before adding \$146,000 to the capital equipment fund, which will be ongoing for years to come. The City will also be considering more bonding next year for streets. He proposed reducing the levy from \$452,000 down to \$306,000, which changes the tax increase from 8.7% to 5.9% keeping more in line with last year's 4.9% tax levy increase.

It was moved by Councilmember Walsh to amend the motion to approve the tax levy and remove the \$146,000 capital levy increase; rather, to approve a revised tax levy of \$306,000. The motion to amend was seconded by Councilmember Biehn for purposes of discussion.

Councilmember Jones explained that the Council has already done what Councilmember Walsh suggests today, which was to keep the tax rate down. The Council, prior to 2015, adopted zero and even negative tax rates levies. The City Council should continue to move forward with the Capital Improvement Fund.

Councilmember Edberg stated he will not support the amendment. For the eight years he has been on the Council, the same staff that has been very frugal in putting off expenditures, is now telling Council that it is time to start tucking money away for expenses, such as a new fire truck.

Councilmember Walsh stated he intends to support future bonding requests for capital equipment needs of the City; however, the \$146,000 increase should be postponed.

Motion defeated: 1:4

The original motion made by Councilmember Walsh and seconded Councilmember Edberg to approve Resolution No. 12129 adopting the 2017 tax levy collectible in 2018 at \$5,625,000 was called for a vote.

A new vote was taken and the motion carried unanimously.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Jones**, to adopt **Resolution No. 12130** adopting the 2018 budget and revising the 2017 budget as adopted by Resolution No. 11917.

The motion carried unanimously.

It was moved by Councilmember Jones, seconded by Councilmember Biehn, to adopt Resolution No. 12131 committing fund balances for specific purpose.

The motion carried unanimously.

It was moved by Councilmember Biehn, seconded by Councilmember Jones, to adopt Resolution No. 12132 authorizing City Contributions toward volunteer and employee recognition.

The motion carried unanimously.

It was moved by Councilmember Biehn, seconded by Councilmember Edberg, to adopt Resolution No. 12133 authorizing and acknowledging the City's contributions and involvement in promoting business and cultural activities in White Bear Lake.

The motion carried unanimously.

It was moved by Councilmember Jones, seconded by Councilmember Biehn, to adopt Resolution No. 12134 establishing 2018 Pioneer Manor rates.

The motion carried unanimously.

It was moved by Councilmember Biehn, seconded by Councilmember Jones, to adopt Resolution No. 12135 establishing 2018 Ambulance rates.

Motion carried unanimously.

B. Resolution approving the policy and purchase of Body Worn Cameras

City Manager Richter stated a public hearing and City Council approval is required by State Statute related to the purchase of Body Worn Cameras. She stated the bid from Motorola is the most cost effective, and includes preferred maintenance, software updates, and integration with the City's existing equipment. She added a demonstration of the Body Worn Camera technology can be provided to City Council at a future date.

Councilmember Biehn stated Police Officers should be allowed to view footage before making a statement. However, he can support approval of the policy with an amendment clarifying the purpose of preventing Police Officers from viewing footage prior to making a statement.

Councilmember Jones requested clarification regarding Councilmember Biehn's position. He added, in his opinion, viewing the video first would add an element of hindsight that would not be available if the report were to be written without viewing the video.

Ms. Richter stated the policy stipulates that the initial statement must be made to an outside investigating agency, to protect the integrity of the process, as well as the Police Officer.

She added the proposed policy was compiled by current members of the Police Department, who did not express any objections.

Councilmember Biehn stated he is comfortable with the assurance that the City Manager and Chief of Police understand the purpose of the policy and that this be reflected in the policy.

Mayor Emerson opened the public hearing 8:58 p.m.

As no one came forward to speak, Mayor Emerson closed the public hearing at 8:58 p.m.

Staff was directed to draft language describing the reason for the provision that requires officers to make a statement before viewing footage. If the language does not satisfactorily reflect the Council's intend, the policy could then be amended. City Attorney Sweeney confirmed this to be appropriate.

It was moved by Councilmember Biehn, seconded by Councilmember Walsh, to adopt Resolution No. 12136 with language added to the policy state the purpose the officer may not preview the footage prior to making a statement.

Motion carried unanimously.

C. Resolution approving Classification and Compensation Plan

City Manager Richter explained that the City Council annually reviews the Position Classification and Compensation Plan, originally adopted by the City Council in 1988 to maintain salary structures and demonstrate fiscal responsibility. Ms. Richter stated comparable data is included in the Council packet from other local communities as well as the private sector and the Minnesota Department of Employment and Economic Development, with a general increase range of 2-3%. City Staff recommends an increase of 2.75% and recommends adoption of the Plan as presented.

It was moved by Councilmember Jones, seconded by Councilmember Engstran, to adopt Resolution No. 12137 approving the 2018 Classification and Compensation Plan.

Motion carried unanimously.

D. Resolution approving bids and awarding contract for the Sports Center Rehabilitation Project, City Project No. 18-09 and Resolution approving financial agreement with White Bear Lake Hockey Association.

City Manager Richter indicated that staff has reviewed three years of audited financial statements for the White Bear Lake Hockey Association, which reflect the Association's capacity to finance the annual debt service required of a 20-year, \$2 million bond, covering its share of the costs for the renovated Sports Center. However, it remains in their best interest to continue aggressive fundraising to lower their debt service. The financial agreement provides for \$500k in advance of the project. All parties support the terms of this agreement.

It was moved by Councilmember Engstran, seconded by Councilmember Walsh, to adopt Resolution No. 12138 authorizing execution of financial agreement with the White Bear Lake Hockey Association for the Sports Center Renovation Project.

Mr. McFarlane, representing the Hockey Association, stated gambling funds will be sufficient to cover the debt service, and fundraising is planned. He added the Association is comfortable with its position.

Councilmember Jones thanked Mr. McFarlane and the Hockey Association, as well as the Skating Association, for their commitment to the project.

Lisa Beecroft (representing the Skating Association) thanked the City Council for their commitment to the project. She added the Skating Association has set up an online fundraising site that will be shared on both Association websites, with families, business associates, and on social media.

Councilmember Walsh stated he appreciates the process that was undertaken for financing this project, with community partners coming together to renovate the arena. He added this has been a long and positive process, culminating in tonight's commitment which he fully supports.

Finance Director Rambow clarified that the Hockey Association's auditor has no connection to the City's auditors. He added the YMCA loan will be released and reallocated to the Sports Center renovation debt in 2018, with no new tax obligation.

Motion carried unanimously.

City Engineer Burch stated bids were received November 19, 2017, for this renovation project for: a new refrigeration system and new rink floor; metal panels on roof and building façade; interior LED lighting; ADA-compliant plumbing upgrades; exterior site improvements; replacement of the existing bleacher system to meet ADA standards; painting and new ceilings; and replacement of the de-humidification system.

Mr. Burch stated bid alternatives include painting the rink floor and changes to the cap rail and kick plate of the boards. The Hockey Association is interested in replacing the cap rail. City staff recommends City Council approval of alternative bid items.

Mr. Burch stated project managers Kraus Anderson and JLG Architects managed the bid process and will oversee the project. Tax exemption status on certain areas was used to realize approximately \$20,000 in tax-free savings. There were 55 bids received on 16 sections of the work. City staff recommends approval of 15 contracts. He added the fire protection bid is not recommended as that component will be re-bid in January 2018. He noted construction would begin in Spring 2018 with an official opening date of September 1, 2018.

It was moved by Councilmember Engstran, seconded by Councilmember Walsh, to adopt Resolution No. 12139 accepting bids and awarding contracts for the White Bear Lake Sports Center Renovation Project.

Motion carried unanimously.

City Manager Richter commended the planning team, including the Engineering and Finance Departments, the Hockey Association and Sports Center staff, for their hard work and efforts.

E. Resolution approving revisions to Boatworks Community Room rental policy

Community Development Director Kane reviewed the Boatworks Community Room rental policy, which was established in 2013 and revised in 2015. Rental has been limited to White Bear Lake City and School District events, local civic and non-profit organizations, as well as White Bear Lake-based clubs and groups. City staff revised the policy to allow private events under certain conditions, respecting the peak demand and restricting private events after 2:00 p.m. between May 1 – Labor Day weekend. This is the first draft of the amended policy, which is subject to future revision as it is learned how the space is used.

Councilmember Edberg requested clarification regarding the 2:00 p.m. restriction, as well as item 6, a maximum of one event per weekend, during peak summer months. Ms. Kane stated restrictions can be amended or waived by the City Manager. She added City staff is concerned about preparing the room between events, but other options may be available. She added the main purpose is to provide access to the community room to the City's residents.

It was moved by Councilmember Walsh, seconded by Councilmember Biehn, to adopt Resolution No. 12140 approving revisions to Boatworks Community Room rental policy.

Motion carried unanimously.

F. Resolution approving Joint Powers Agreement with Ramsey County for Dispatch Services

City Manager Richter reviewed the staff report related to the Joint Powers Agreement with Ramsey County for dispatch services. She noted that 40% of the Ramsey County Communications Center costs are paid for through fees charged to each jurisdication based on number of calls for service; 60% is paid for through county-wide tax dollars. She added that City staff hopes to have the transition in place by Summer 2018, and will continue to update City Council on the progress.

It was moved by Councilmember Jones, seconded by Councilmember Walsh, to adopt Resolution No. 12141 approving Joint Powers Agreement with Ramsey County for Dispatch Services.

Councilmember Biehn abstained. Councilmember Engstran nay. Motion carried 3:1

G. Resolution ordering preparation of a feasibility report for the 2018 Street Reconstruction Project and the 2018 Mill and Overlay Project, City Project Nos.: 17-06, 18-01, 18-06 & 18-13

City Engineer Burch reviewed the 2018 Street Reconstruction Program projects, including Birch Lake Boulevard South and Old White Bear Lake Avenue and adjacent trails. The next large project will be reconstruction of streets from the north east section of the City from basically Highway 61 to Lake Avenue, and 11th Street to 7th Street, which includes alleys. The third portion of the program will be mill overlays on 11th Street from Division Street to the dead end, and Sumac Circle East of Willow Avenue North of County Road D. Public information meetings have been held on each of these projects.

City staff recommends preparation of a feasibility report for the 2018 Street Reconstruction Project and 2018 Mill and Overlay Project.

It was moved by Councilmember **Edberg**, seconded by Councilmember **Biehn**, to adopt **Resolution No. 12142** ordering preparation of a feasibility report for the 2018 Street Reconstruction Project and the 2018 Mill and Overlay Project, City Project Nos.: 17-06, 18-01, 18-06 & 18-13.

Motion carried unanimously.

10. HOUSING AND REDEVELOPMENT AUTHORITY

Chair Doug Biehn called the <u>Housing and Redevelopment Authority</u> to order at 9:45 p.m. (please refer to the minutes of the <u>Housing and Redevelopment Authority</u> for action taken that included the following items):

- 1. Call to order
- 2. Roll Call
- 3. Approval of the agenda
- 4. Approval of the minutes
- 5. Resolution not waiving the monetary limits on Municipal Tort Liability established by Minnesota Statutes 466.04 for Housing and Redevelopment Authority.
- 6. Resolution authorizing an amendment to extend a parking lot lease for the property at 2137 4th Street.
- 7. Resolution authorizing resolution in support of acquiring a tax-forfeited property located at 3695 St. Regis Drive for the purpose of development of an affordable housing opportunity in partnership with Twin Cities Habitat for Humanity.
- 8. Adjournment 10:01

Mayor Emerson reconvened the City Council meeting at 10:02 p.m.

11. CONSENT

- A. Acceptance of October White Bear Lake Conservation District Minutes; October Environmental Advisory Commission Minutes; October Park Advisory Commission Minutes; November Planning Commission Minutes.
- B. Resolution not waiving the monetary limits on Municipal Tort Liability established by Minnesota Statutes 466.04. Resolution No. 12143
- C. Resolution approving execution of a management agreement for Pioneer Manor Resolution No. 12144

It was moved by Councilmember **Edberg** seconded by Councilmember **Biehn**, to approve the Consent Agenda as presented.

Motion carried unanimously.

12. DISCUSSION

Nothing scheduled

13. COMMUNICATIONS FROM THE CITY MANAGER

City Manager Richter gave a brief presentation, 2017 Year in Review, featuring the work of the City Council and staff.

Councilmember Jones expressed his appreciation of the Council work sessions which were instrumental in providing forethought and understanding for the City Council related to these and many other issues. Councilmember Edberg agreed, adding successful agreements with the Hockey Association were the result of advanced planning.

Ms. Richter thanked the City Council for their support, and wished them a Happy Holiday season.

Emerson thanked City Manager Richter for the presentation, and expressed her appreciation for the hard work and efforts of all City employees in 2017.

14. ADJOURNMENT

There being no further business before the Council, it was moved by Councilmember Walsh seconded by Councilmember Biehn to adjourn the regular meeting at 10:15 p.m.

Jo Emerson, Mayor

ATTEST:

Kara Coustry, City Clerk